

APPEAL NO. 041313  
FILED JULY 21, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on May 4, 2004. The hearing officer determined that the respondent (claimant) sustained a compensable umbilical hernia on \_\_\_\_\_, and that the claimant had disability from (Monday after the date of injury), to the date of the CCH.

The appellant (carrier) appealed, contending that the claimant had not reported his injury immediately as required by company policy, that the treating doctor's opinion is predicated on a faulty history, and that the claimant's unemployment was due to his decision not to proceed with surgery. The claimant responds, urging affirmance.

DECISION

Affirmed.

The claimant, a pipefitter, testified that he sustained an umbilical hernia pulling and aligning a heavy pipe on Friday, \_\_\_\_\_. The claimant testified that he did not realize that he had a hernia until Saturday evening, (day after the date of injury), when he was taking a shower. The claimant reported his injury on Monday, (3 days after the date of injury), was sent to see his personal doctor and when the doctor called to verify the work-related injury the employer denied the injury because it had not been reported immediately on \_\_\_\_\_. The claimant was subsequently released to light duty with restricted lifting. The employer did not make light work available. The claimant's doctor testified that it was his opinion that the claimant had sustained a work-related injury lifting a heavy item. The claimant had passed a preemployment physical some six weeks prior to the date of injury.

The questions of whether the claimant sustained a compensable injury and whether he had disability presented questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The factors emphasized by the carrier in challenging the hearing officer's determinations on appeal are the same factors it emphasized at the hearing. The significance, if any, of those factors was a matter for the hearing officer in resolving the issues before her. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **BANKERS STANDARD INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBIN M. MOUNTAIN  
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 300  
IRVING, TEXAS 75063.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Veronica L. Ruberto  
Appeals Judge